Remarks:

Applicants have read and considered the Office Action dated March 16, 2011 and the references cited therein. The Appeal filed on September 16, 2011 is hereby withdrawn. Claims 1, 8, 14 and 19 have been amended. New claims 24-26 have been added. Claims 5, 6 and 13 have been cancelled without prejudice or disclaimer. Claims 1, 3-4, 7-12 and 14-26 are currently pending. Reconsideration is hereby requested.

Claim 1 was objected to as "the observation from the user" lacks antecedent basis. Claim 1 has been amended so that "an observation from a user" is first recited. Applicants assert that the objection has been overcome and requests that the rejection be withdrawn.

Claims 1, 3-8, 14, 15 and 19-23 were rejected under 35 U.S.C. § 102(b) as being anticipated by Eggers et al. Applicants respectfully traverse the rejection. The Action states that Eggers et al. discloses a system for computer aided intravenous delivery of a drug to a patient during a whole duration of an anesthetic procedure on the patient. The Action contends that Eggers is capable of being used over such a time period. The Action states that Eggers includes a knowledge base storing a set of written parameters to steer intravenous delivery of drugs as claimed including first and second procedures and a sensor. The Action states that Eggers also includes an infusion session manager comprising an infusion controller, a communication controller, a data logger controller that receives a signal from the sensor and a GUI. Moreover, the Action states that Eggers includes a first interface, a second interface linking the session controller to the views displayed by the GUI and a third interface. Finally, the Action states that Eggers includes an archiving manager storing data needed to restart or recover actions, a program that controls the infusion session manager and the archiving manager and a patient health monitor.

Although Eggers is directed to a system for drug delivery at a hospital, Eggers is concerned with ensuring that the correct drug is given to the correct patient and using a network

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to coordinate drug delivery to and from multiple locations. Although the Action states that Eggers is capable of being used during an anesthetic procedure, Applicants assert that Eggers is not capable of being used in a satisfactory manner for such a procedure and not in the manner recited in claim 1.

The present invention is directed to a system for computer aided intravenous delivery of a drug to a patient during a whole duration of an anesthetic procedure on the patient. Although Eggers vaguely references a surgical room, there is no teaching that the system can be used during an anesthetic procedure. Eggers may have a database but does not include a knowledge base that stores a set of written procedures to steer intravenous delivery of drugs for the anesthetic procedure, the procedures adapted to types of surgical actions, physical conditions of patients, types of drugs, tools used to administer the drugs and theoretical models of the drugs, a set of written procedures including at least a first procedure and a second procedure.

Claim 1 further recites an infusion session manager that steers delivery of the drug for the anesthetic procedure. The infusion session manager includes an infusion controller arranged to deliver an amount of the drug intravenously to the patient for the anesthetic procedure. Eggers does not teach or suggest that its network may be used for intravenous delivery for such an anesthetic procedure.

Claim 1 further recites a communication controller connected with infusion pumps and monitors and a data logger controller that receives the signal from the sensor. Claim 1 recites a graphic user interface that displays different views of the system and that accepts user input. The infusion session manager includes a first interface that links the infusion controller to one of the views displayed by the graphical user interface and a session controller that runs the first procedure. Claim 1 also recites that the session Controller dynamically adapting the first procedure during the anesthetic procedure based on the signal from the sensor or an observation from a user. Applicants assert that Eggers is completely silent as to such dynamic control during an anesthetic procedure. The present invention provides for controlling and changing

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intravenous drug delivery dynamically with changes being made as the procedure changes and as conditions such as patient health and other parameters change. This dynamic control and fast reaction is not possible with the Eggers device or any other prior art or combination thereof. Claim 1 also recites a second interface linking the session controller to the views displayed by the graphical interface and a third interface that links the data logger controller to the views displayed by the graphical user interface. The first, second and even third interfaces all configured for use with a single patient during a single procedure is neither taught nor suggested by a single anesthetic procedure and is neither taught nor suggested by Eggers. Moreover, any other prior art fails to teach or suggest such a system or provide control dedicated to a single anesthetic procedure. A system with the response, controls, interaction and adaptivity of the present invention is new, novel and non-obvious over the prior art. Applicants assert that claim 1 patentably distinguishes over the prior art and request that the rejection be withdrawn.

Applicants further note that claim 8 recites that at least one of the written procedures contains a preprogrammed script of tasks or commands per major event, phase or step in a surgery. Although the prior art may include steps or notes, the prior art fails to teach or suggest the use of a script that reads out more completely and provides the user during a potentially extended monitoring session with detailed, easy to read and understand and complete instructions as to how to effect changes or carry out additional tasks as they become necessary during the anesthetic procedure. Applicants assert that these features of claim 8 are neither shown nor suggested by the prior art.

Claim 14 has been amended and clarifies that the system includes a delay requiring that a minimal amount of time has to pass between two subsequent modifications to one of the written procedures. Such a delay provides an added measure of safety so that adjustments may be made only after the pumps and other devices have obtained requested levels or rates. This prevents too great of a change in too short of a time period. Applicants assert that such control and safety is

not found in the prior art. Applicants assert that claim 14 patentably distinguishes over the prior art.

Claim 19 has been rewritten in independent form and includes the limitations of claim 1. Applicants assert that the procedure recited in claim 19 is patentable for reasons similar to those recited above with regard to claim 1.

Claims 9-12 and 16-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Eggers in view of Hickle et al. As discussed above, claim 1 patentably distinguishes over Eggers et al. Applicants assert that Hickle fails to remedy the shortcomings of Eggers et al. Therefore, Applicants assert that claim 1 patentably distinguishes over the combination of Eggers and Hickle. As claim 1 patentably distinguishes over the combination, Applicants assert that claims 9-12 and 16-18 also patentably distinguish over the combination for at least the same reasons as well as others provided by the features recited in those claims. Applicants request that the rejection under 35 U.S.C. § 103(a) be withdrawn.

New claims 24-26 recite further non-obvious differences and advantages of the present invention. Claim 24 recites a plurality of settings for different experience levels of the user, thereby controlling the ability of the user to make changes to the system. The prior art fails to teach or suggest such safety measures. The present invention provides for changes to the written procedures only one having an expert level of experience is controlling the system. The expert script and written instructions may be changed only if the expert is a user to prevent inexperienced users or those having experience less than expert from making mistakes or making permanent changes to the system. Moreover, new claim 25 recites that the plurality of settings includes a setting for an expert experience level wherein permanent changes to the written procedure may be made only if the user has an expert level of experience. This provides an added safeguard that is not possible with the prior art or any combination thereof.

Finally, claim 26 recites that the set of written procedures is in the form of the script. The present invention provides for in depth written instructions and commentary for procedures by experts in the field of intravenous drug delivery during an anesthetic procedure. The procedures are written as a script for the user and provide for more complete information and easier to understand information that is more likely to keep the attention of a user. This is especially important for prolonged anesthetic procedures wherein the user may have to monitor changes for a very extended period of time. Moreover, when changes in the procedure or to the health or other parameters have taken place, such written instructions provide for more complete and easier to understand instructions that may be more quickly understood and implemented by the user. Applicants assert that claim 26 patentably distinguishes over the prior art and is in condition for allowance.

A speedy and favorable action in the form of a Notice of Allowance is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicant's representative at (612) 336-4728.
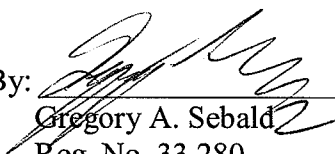
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Respectfully submitted,

MERCHANT & GOULD P.C.

Dated: 2/16/12

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